

**“APPROPRIATE MINUTES
OF ALL MEETINGS REQUIRED...
...TO BE OPEN SHALL BE KEPT”**

*A Report to 55th Legislature
on Senate Joint Resolution No. 4*

November 1996

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PREFACE

Legislative standing committees serve an extremely important function in the legislative process. Standing committees serve as the filter and the refiner of legislation presented for consideration by a state legislature or assembly. Generally, the committee may pass a bill, amend a bill, "kill" a bill, table a bill, or postpone it indefinitely. In only a few states must a standing committee report all bills referred to it. Every standing committee can amend legislation that is referred to it. Oftentimes, committee amendments can solve problems or conflicts that occur in legislation before the legislation is placed for consideration before the entire legislative body.

Legislative standing committees also provide the opportunity for the public to be heard on legislation. It is during the hearing on a specific bill that citizens and interest groups can provide formal input into the legislative decisionmaking process. Every state requires that legislative committee meetings be open to the public. Almost every state requires advance public notice of committee hearings. The legendary smoke-filled rooms of the past are quickly fading as the public and the media demand access to and openness in the legislative process.

In Montana, the minutes of what happens in a committee are the only official record of what the concerns were that prompted the introduction of a bill, who the bill affects, and what the questions were regarding the bill and its purpose. Because there are no written guidelines as to what should be included in a set of minutes, there are considerable variations in the contents of meeting minutes from committee to committee and from session to session. With few standards to measure against, there is a significant lack of consistency and quality among the minutes of the various committees, resulting in complaints from users and in a historical record that is often unclear and incomplete.

In addition, it has not been unusual for committee minutes to be unavailable for up to six months after the adjournment of a session. After the 1995 Legislative Session, one set of committee minutes was not available until January 1996. This lack of timeliness is especially problematic for state agencies attempting to draft rules implementing legislation and for the legal community preparing for litigation.

As a result of these concerns, the 54th Montana Legislature passed Senate Joint Resolution No. 4, requesting the Legislative Council to conduct a study of legislative committee minutes and to propose a clear definition of the components to be included in committee minutes. In order to complete the study, staff reviewed what little literature there is on committee minutes; interviewed committee secretaries, staff from the Legislative Services Division, legislators, legislative agency staff, and House and Senate employees from Montana as well as other states; surveyed state agency staff, legislative agency staff, selected lobbyists and attorneys, and House and Senate staffs in other states; and reviewed legislative rules from numerous states. In addition, a working group, composed of people with a great deal of interest in the production and utility of legislative committee minutes was formed to assist staff in the study. Staff wishes to acknowledge the assistance of the following people:

Joyce Andrus, former Chief Clerk of the House

Senator Sue Bartlett

Claudia Clifford, former Secretary of the Senate

Elizabeth Furbush, Legislative Librarian

Judy Meadows, State Law Librarian

Marilyn Miller, Chief Clerk of the House

Kathie Otto, State Archivist

Rosana Skelton, Secretary of the Senate

Lynn Staley, secretary to Senate Finance and Claims Committee

CHAPTER ONE

CONSTITUTIONAL, STATUTORY, AND ARCHIVAL REQUIREMENTS FOR LEGISLATIVE COMMITTEE MINUTES

INTRODUCTION

In January of every odd-numbered year, the Montana Legislature convenes in Helena to take up the work of governing the state of Montana. For the next 90 legislative days, Senators and Representatives introduce and debate legislation that, if approved, will affect the citizens of the state for many years to come. An integral part of that debate are the public hearings on legislation that are held by the various standing committees. It is in these public hearings that legislation is presented, explained, supported, opposed, questioned, debated, amended, and accepted or rejected. While it is mainly lobbyists who testify for or against legislation in committee, more and more members of the public are traveling to Helena to have their say on legislation that will affect them personally. Because there is no written record of the proceedings when legislation is debated on second reading in the Committee of the Whole, the minutes of legislative committee meetings are the only descriptive record of the discussion and debate and constitute an essential part of the permanent legal and historical record of legislative consideration. State agencies consult the minutes when drafting administrative rules to implement the legislation. Private attorneys consult the minutes when preparing litigation challenging a state statute. Courts consult the minutes to determine the intent of a statute. Other people consult the minutes to determine why a particular bill passed or failed.

What, then, are the requirements for a set of legislative committee minutes? What do the Montana Constitution and the Montana Code Annotated say about legislative committee minutes?

CONSTITUTIONAL REQUIREMENTS

The 1889 Constitution made no mention of legislative committees. Article V, section 24, stated only that passage of a bill required a majority vote of all members present in each house and that, upon final passage, the names of those voting be entered on the journal. The 1972 Constitution requires that every vote of each member on each substantive question, either in committee or in the Committee of the Whole, be recorded and made public (Article V, section 11, subsection (2)). This requirement makes it imperative that the votes in standing committees be recorded.

STATUTORY REQUIREMENTS

Meetings of legislative committees are bound by Montana's open meetings law (Title 2, chapter 3, part 2, MCA). Part of that law includes the right of the public to inspect minutes of all meetings governed by the law (2-3-212, MCA). The law stipulates that the minutes of an open meeting must include:

- (1) the date, time, and place of the meeting;
- (2) a list of the individual members of the public body, agency, or organization in attendance;
- (3) the substance of all matters proposed, discussed, or decided; and
- (4) at the request of any member, a record by individual members of any votes taken.

There are no statutory requirements specifically regarding legislative committee minutes. The statutes do allow each legislative house to establish its own rules, and it is within the rules of the respective houses that the standing committee requirements are found.

SENATE RULES

Senate rules require a standing committee chair to designate a secretary to take and transcribe minutes of committee meetings (S10-90). The committee presiding officer must authenticate committee reports and minutes by signing them (S30-50). The original minutes plus two copies are then turned over to the Secretary of the Senate, who delivers them to the Montana Legislative Library to be copied on microfiche. Microfiche copies are retained by the Montana Legislative Library, and a second set is provided

to the State Law Library. The Legislative Fiscal Division receives a microfiche copy of the minutes of the Senate Finance and Claims Committee. All original minutes are archived in the Montana Historical Society.

HOUSE OF REPRESENTATIVES RULES

The rules of the House of Representatives regarding committee minutes are similar to the Senate's rules. The presiding officer of a standing committee is responsible for certifying committee reports and minutes (H30-20). The same copying procedure contained in the Senate rules is followed for the House committee minutes. A microfiche copy of the minutes of the House Appropriations Committee is sent to the Legislative Fiscal Division (H10-70). All original minutes are archived in the Montana Historical Society.

ARCHIVAL REQUIREMENTS

Title 22, chapter 3, part 2, MCA, creates a State Archives in the Montana Historical Society for the preservation of noncurrent records of permanent value to the state and to local governments. In addition, the State Archivist is authorized to work, upon request, with the Executive, Legislative, and Judicial Branches of state government in the establishment of records management programs.

The State Archives is the repository for records of the Montana Legislature that date back to territorial days. The records are a valuable resource for researchers seeking to understand and interpret Montana's past. Because of the research value of the records, the archivists are concerned about the physical preservation of the records.

The State Archivist requires that the original legislative committee minutes be typed on archival-quality paper that can be preserved for many years to come. In past years, once the committee minutes were transcribed from the audiotapes, the tapes were reused. In 1995, for the first time, the original tapes were sent to the State Archives for storage. However, audiotapes are an unstable medium and can be kept for no longer than about 10 years before they become unusable. Because many of the research requests relating to committee minutes refer to more recent legislative sessions, the staff of the State Archives hopes that requests for tapes of committee meetings of a particular session will taper off within 10 years after that

session, and therefore, storage of the tapes will no longer be necessary. While the State Archivist is looking at preservation methods that use new technological advances, for the time being, the best medium for storing these legislative records is paper.

SUMMARY

While legislative committee minutes are recognized as a valuable resource not only for helping determine legislative intent but also for future interpretation of past events, there are few guidelines to follow in determining what constitutes a complete set of quality minutes. The only constitutional requirement is that every substantive vote taken by each member of the Legislature be recorded and made public. The Montana Code Annotated is silent on the issue of legislative committee minutes except for the requirement that legislative committees abide by the open meetings law. House and Senate rules require only that minutes be taken, signed by the committee presiding officer, and transferred to the Montana Legislative Library for copying on microfiche and for distribution to certain agencies. The State Archives requires that the original minutes be typed on archival-quality paper for permanent storage.

CHAPTER TWO

LEGISLATIVE COMMITTEE MINUTES IN MONTANA

PRODUCTION OF COMMITTEE MINUTES

The standing committees of the Montana Senate and the House of Representatives are required by the *Rules of the Montana Legislature* to keep minutes of their meetings (S30-50 and H30-20). Traditionally, it has been the responsibility of the committee secretary to prepare the minutes. In addition, the secretary is responsible for numerous other duties related to legislative committees. The duties outlined below are generally the same in the House of Representatives and in the Senate. There are some differences in procedure between the two legislative bodies, but they are minor.

PRIOR TO MEETING

Once the secretary has been notified of the bills assigned to the committee, the secretary informs the committee presiding officer, who then sets the hearing dates. Once the date has been set, the secretary enters the bill numbers and the dates on the wall calendar and in the secretary's binder. Hearing notices are prepared for the committee members, legislative staff, the Senate Secretary or the House Chief Clerk, the Information Office, and the bill sponsor. The notices are taken to the Office of the Sergeant-at-Arms for delivery to the appropriate persons. If a meeting is cancelled or if a hearing on a particular bill is cancelled, it is the secretary's duty to note the cancellation in the appropriate places and then prepare and deliver the cancellation notices in the same manner as the hearing notices. The same procedure is followed when meetings are rescheduled.

The secretary is responsible for preparing the committee schedule for the committee presiding officer on a daily basis. The schedule includes the bill number, sponsor, short title, date, and a copy of the first page of the bill. If multiple bills are being heard on the same day, then the information is repeated for each bill. The secretary orders bills and fiscal notes for each committee member, tabs each bill, and then places the bills and fiscal notes in the committee member's binder.

DAY OF MEETING

On the day of the meeting, the secretary sets up the meeting room by putting out the binder, along with a notepad, pencil, and name plate, at each committee member's seat. The visitor register and witness sheets, with pens, are placed at the entrance of the meeting room. At the secretary's seat, the tape recorder, blank tapes, notepads, pens and pencils, gavel, exhibit stamp and stamp pad, and minutes folders are placed. Finally, the coffee, cups, napkins, sugar, creamer, and tissues are set out. In recent sessions, committee aides have been hired to assist the secretary in setting up the committee room. This frees the secretary to concentrate on other responsibilities.

During the meeting, the secretary records the proceedings, marking each tape used with the committee's name and the date of the meeting. The secretary also takes notes during the meeting to assist in the preparation of the written minutes. The secretary is responsible for collecting and stamping the exhibits and making sure that copies of amendments are collected. When the meeting is over, the secretary collects the visitor register, witness sheets, and secretarial materials. Material collected that is pertinent to the meeting becomes part of the minutes. The members' binders are placed on the shelves in the committee room. If there are materials that were presented to the members during the hearing, these are punched and placed in the binders. The room is then cleaned. Again, committee aides are used in helping to clean up after a meeting.

FOLLOWING THE MEETING

Immediately following the meeting, the secretary prepares the committee report request form, attaches copies of any amendments, and takes the request form to the amendments coordinator. The coordinator prepares the committee report for the presiding officer's signature.

Once all of this is completed and preparations are made for the next meeting of the committee, the secretary begins the minutes. The secretary prepares the minutes using the WordPerfect macros developed by the Office of Legislative Information Technology of the Legislative Services Division. These macros provide a standard format for recording committee action. Once the written minutes are completed, the secretary gives a copy to someone to proofread. A final copy is then given to the committee presiding officer for review and signature. A complete set of minutes includes the

written transcription, the roll call sheet, the roll call vote sheet, a copy of the standing committee report, exhibits and amendments, witness sheets, and visitor register. At the end of the session, the sets of minutes for each committee are delivered to the Library at the Legislative Services Division to be checked for completeness and to be prepared for microfiching. One microfiche copy is kept by the Legislative Library and one copy is sent to the State Law Library. The original written minutes are sent to the State Archives at the Montana Historical Society, along with the original tape recordings of the committee meetings.

Currently, the written minutes include a summary of the important events that occurred at the meeting. Where the summary becomes especially important is during the question and answer period and during executive action on a bill. Unfortunately, there is no consistent standard for the level of detail to be captured in the minutes; the level varies from secretary to secretary. Some secretaries attempt to capture the essence of the discussion, while other secretaries transcribe the executive action almost verbatim. If a secretary is unfamiliar with the topic under discussion or if the topic is highly complex or technical, the secretary may inadvertently exclude important information. If the minutes are not reviewed by the committee presiding officer close to the completion of the meeting, the missing information might not be noticed.

Although the ideal situation would be for the secretary to begin the minutes as soon as the meeting is completed, this does not happen, especially for those committees that meet every day. Generally, the minutes are not begun until later in the session after the committee's work is completed. This often results in some secretaries working on the committee minutes long after the legislative session ends and the legislators have left Helena.

SECRETARIAL SERVICES

Committee secretaries are hired by the House and by the Senate for a legislative session. The hiring is generally done by the Chief Clerk and the Secretary of the Senate, although some committee presiding officers may also be involved in the hiring process. The hiring is done in November and December, after the general election and the party caucuses. Although there are no specific job descriptions for committee secretaries, people who are

hired generally have some secretarial experience and familiarity with word processing. Once in a while, a legislator asks that a specific individual be hired, qualifications notwithstanding. This sort of patronage hiring, at least for secretaries, is becoming less and less common. However, it is becoming more and more difficult to hire session secretaries because those with good secretarial skills and experience are often looking for full-time work. There are some secretaries who return session after session; however, each session brings a new supply of secretaries unfamiliar with the legislative process and the pressures of the legislative environment. In more recent years, the House and Senate administrations have attempted to provide some training for new secretaries to familiarize them with the work they will be doing. Because most secretaries do not begin work until December before a session, training becomes more of an orientation: where the committee rooms are, how to order supplies, who is responsible for what, what forms go with what procedure, etc. Secretarial handbooks have been developed to assist a secretary in performing the required duties. Included in the handbook are some guidelines for a secretary to follow in preparing committee minutes. The guidelines list all of the components of a set of minutes: written minutes, roll call of members, standing committee reports, roll call votes, exhibits, and visitor register. In preparing the written minutes, secretaries are instructed to use clear and precise language that conveys a concise account of the decisionmaking process with no suggestion of bias. The exact language of all motions is to be preserved.

A CRITIQUE

How good, then, are legislative committee minutes? Do they provide the information that researchers, historians, attorneys, judges, and others require? If not, what are the problems? What are the solutions? In order to answer these questions, a survey was sent to the legal division of each state agency, to research and fiscal analysts and attorneys within the legislative agencies, and to a selected number of private attorneys and organizations who work as lobbyists and have used legislative committee minutes in their work. Those surveyed were asked to comment on their satisfaction with legislative committee minutes, to identify problems with the minutes, to comment on the methods for producing the minutes, and to offer suggestions for improving the minutes. A total of 98 surveys were mailed out; 71 were completed and returned for a return rate of 72%. The

following is a summary of the survey responses to specific questions regarding legislative committee minutes. Some of the questions allowed for more than one answer. Therefore, the percentages do not add up to 100%.

(1) *Have you found the legislative committee minutes satisfactory for your purpose?*

- () *Yes*
- () *Uncertain*
- () *No*

This question asked for only one response from each respondent. The majority, 55%, said that they were uncertain as to whether the committee minutes were satisfactory for their purpose. Twenty-seven percent responded no, while only 17% responded yes.

(2) *If you answered "no" or "uncertain" to the previous question, what were some of the problems you encountered?*

- () *Minutes did not provide sufficient detail.*
- () *Minutes were erroneous.*
- () *Minutes were poorly written.*
- () *Issue was not discussed.*
- () *Minutes were not available when I needed them.*
- () *Other*

Over three-fourths, 79%, of the responses to this question, said that the minutes did not provide sufficient detail. Forty-four percent felt the minutes were poorly written; 39% found that the issue they were interested in was not discussed in the minutes; 25% decried the lack of availability of the minutes when needed; and 24% said that the minutes were erroneous. Of those who responded "other", some of the identified issues were problems with the exhibits and poor recording of legislators' comments.

(3) *Would the minutes be better if prepared in a different manner?*

- () *audio tape only with exhibits attached*
- () *videotape only with exhibits attached*
- () *audio tape with written record of motions, votes, witnesses, and exhibits*

- (i) *verbatim transcript with exhibits*
- (i) *current method (summary minutes with exhibits)*
- (i) *Other*

The vast majority of the responses to this question indicated that a written record was preferable to an audio or video record only. As far as a written record was concerned, 48% favored a verbatim transcript, while the current method and the audiotape with written record of motions, votes, witnesses, and exhibits each garnered 25%. However, in the "other" category, the largest number of responses asked for an improvement on the current method. There was also support for a verbatim transcript of executive action only.

(4) What suggestions would you offer for improving the effectiveness of legislative committee minutes?

The responses to this question elicited a number of suggestions. Because it was an open-ended question, a breakdown of responses by category with corresponding percentages was not possible. However, the suggestion that appeared repeatedly in the responses was the need for better-trained and better-paid secretaries. Other suggestions included the need for developing standards for committee minutes, better reporting of a committee's executive session, better reporting of the questions and discussion by committee members, and the use of new technologies such as CD-ROMs.

(5) Other comments?

As with Question No. (4), this was open-ended and simply offered an opportunity for respondents to make additional comments. Respondents stressed the need for better-trained, better-qualified secretaries and expressed the need for more detail in the minutes, especially when recording legislators' questions and comments. Timeliness was an issue for respondents who were involved in drafting administrative rules. Many respondents commented on the disparity in secretarial ability: some secretaries provided well-written minutes that documented the meeting accurately, while others produced minutes that were slightly better than worthless. Comments were also made as to the need to impress upon committee presiding officers the importance of good committee minutes. One suggestion made by a respondent was to have the secretaries hired and

supervised by the Legislative Services Division (LSD), provided that LSD had the time and resources to handle the job. One respondent suggested that the study look at how other states handle the hiring and supervision of committee secretaries.

One respondent stated that:

If the quality, completeness, accuracy, and timeliness of standing committee minutes cannot be improved through commitment of adequate resources, training, and oversight, the standards for standing committee minutes should be clearly set at nothing more than: date, time, and place of meeting; committee members in attendance; bills heard; bills acted upon; roll call votes; (and) list of visitors. The skeleton minutes should be prepared daily and adopted by the committee as the first order of business each day.

CHAPTER THREE

LEGISLATIVE COMMITTEE MINUTES IN OTHER STATES

PRODUCTION OF COMMITTEE MEETING MINUTES

Every state legislative body keeps some form of written record of the proceedings of standing committees. These records range from a simple committee report to an extensive transcription of the proceedings. Many states record the meetings on audiotapes that are transcribed and reused, transcribed and archived, or simply archived.

The minutes are generally required by legislative rule. A review of the rules of 24 state legislatures reveals a variety of requirements for committee minutes. (See Table I.) Some legislative rules simply state that minutes must be taken; others mandate what must be included in a set of minutes. Of the 24 legislatures reviewed, 18 had definite requirements for the contents of committee minutes. The common required contents included:

- (1) time and place of meeting;
- (2) members in attendance;
- (3) names and addresses of witnesses;
- (4) list of bills, resolutions, etc., considered by the committee; and
- (5) action of committee on items under consideration, including amendments and votes.

A few chambers asked for brief summaries of witness testimony and committee debate. Other information required by some chambers included bill summaries, minority statements, statements regarding legislative intent, and references to the recording log if the meeting was tape recorded.

In addition to specifying what should be included in the committee minutes, eight of the legislatures set specific deadlines, other than the end of the session, for the completion of the minutes. (See Table I.) One chamber set 30 days after adjournment as the deadline. Eight states set deadlines that were a certain number of days or even hours from the meeting. For example, in the Arizona House, minutes must be filed with the Chief Clerk

within 72 hours from the completion of the meeting (Rule 9, Committees). In the Nevada Senate, minutes must be filed with the Secretary of the Senate not later than two weeks after the day on which the meeting was held (Rule 53, Committee Rules). In the Minnesota House, the minutes must be approved by the committee at its next regular meeting (Rule 6.06, Committee Records). In the New York Senate, the minutes of a committee's executive session must be completed one week after the executive session occurs (Rule VII, Standing Committees).

TABLE I

| STATE | MINUTES REQUIREMENTS IN RULES | DEADLINES |
|----------------------------|--|----------------------------|
| Alaska Joint | Yes | No |
| Arizona House | No | Yes, 72 hours |
| Delaware Senate | No | No |
| Georgia Senate | Yes | No |
| Indiana House | No | No |
| Indiana Senate | No | No |
| Iowa House | No | No |
| Kansas Senate | Yes | No |
| Louisiana House | Yes | No |
| Missouri House | Yes | No |
| Missouri Senate | No | No |
| Minnesota House | Yes | Yes, next regular meeting |
| Nevada Senate | Yes | Yes, 2 weeks after meeting |
| New Hampshire House | Yes | No |

| | | |
|------------------------------|-----|--|
| New York Assembly | No | No |
| New York Senate | Yes | Yes, 1 week after executive session |
| North Carolina Senate | Yes | Yes, not later than 30 after adjournment |
| North Dakota Senate | Yes | No |
| Oregon Senate | Yes | No |
| South Dakota Joint | Yes | Yes, 2 days after meeting |
| Texas Senate | No | Yes, 7 days after meeting |
| Texas House | Yes | Yes, 5 days after meeting |
| Virginia House | No | No |
| Virginia Senate | No | No |

In recent years, more and more legislative chambers have begun tape recording their committee proceedings. (See Tables II and III.) In fact, out of 99 legislative chambers in the United States (Nebraska has a unicameral legislature), less than one-third do not do any taping. Thirty chambers tape all committee meetings. The remainder tape meetings ranging from most committee meetings to only specific types of meetings; e.g. confirmation hearings. Over half of the states tape committee meetings in both chambers.

The tapes are used for a variety of reasons, the most prominent being for legislative history and determining legislative intent. A few states use the tapes to aid the secretaries in preparing the committee minutes. Almost half of the chambers archive the tapes, while one-third transcribe the tapes. Many states make the tapes available for public listening, either at a central location or through the purchase of the tapes. The tapes are available for purchase in about one-fourth of the legislative chambers.

TABLE II

STATES THAT TAPE LEGISLATIVE COMMITTEE MEETINGS

SENATE

| STATE | TO WHAT EXTENT? | TRANSCRIBED | ARCHIVED |
|---------------------------------------|---|----------------------|----------|
| Alaska | All | Yes | Yes |
| Arizona | Most | No | No |
| Arkansas | Less than half | No | Yes |
| Colorado | All | Yes, if requested | Yes |
| Connecticut | All | Yes | Yes |
| Delaware, if requested by Chair | Less than half | No | Yes |
| Florida | All | No | Yes |
| Georgia | Less than half | Yes | No |
| Idaho | Joint Finance/Approp. Comm.; others at secretary's discretion | No | Yes |
| Indiana | Less than half | Yes, some | No |
| Kentucky | Less than half | Yes | Yes |
| Louisiana | All | Yes | Yes |
| Maine | Only confirmation sessions | No | Yes |
| Michigan | All | No | Yes |
| Minnesota | All | No | Yes |
| Missouri | Less than half | Yes | No |

| | | | |
|---|----------------|-----|-----|
| Montana | All | Yes | Yes |
| Nebraska | All | Yes | Yes |
| Nevada | All | Yes | Yes |
| New Hampshire | All | Yes | Yes |
| New Jersey | Less than half | Yes | No |
| New York: no audio tape; use court reporters | All | Yes | No |
| North Carolina | All | Yes | No |
| North Dakota | All | No | Yes |
| Ohio | Less than half | No | No |
| Oklahoma | Less than half | No | No |
| Oregon | All | No | Yes |
| Pennsylvania | Less than half | Yes | Yes |
| South Carolina | Most | Yes | No |
| Tennessee | All | Yes | Yes |
| Texas | All | Yes | Yes |
| Utah | All | No | Yes |
| Vermont | One-half | No | No |
| Washington | All | Yes | Yes |
| West Virginia | Most | No | No |

TABLE III

**STATES THAT TAPE LEGISLATIVE COMMITTEE MEETINGS
HOUSE**

| STATE | TO WHAT EXTENT? | TRANSCRIBED | ARCHIVED |
|------------------------------|----------------------------|---------------------------|-----------------|
| Alabama, if requested | Less than half | Yes | No |
| Alaska | All | No | Yes |
| Arizona | Most | No | No |
| Arkansas | All | Yes | No |
| Colorado | All | Yes, at request of member | Yes |
| Connecticut | All | Yes | Yes |
| Delaware | Less than half | No | Yes |
| Florida | All | No | Yes |
| Illinois | All | No | Yes |
| Indiana | Most | No | No |
| Kentucky | All | Yes | Yes |
| Louisiana | All | No | Yes |
| Maine | Only confirmation sessions | No | Yes |
| Michigan | Less than half | Yes | No |
| Minnesota | All | No | Yes |
| Montana | All | Yes | Yes |
| Nevada | All | Yes | Yes |
| New Hampshire | Less than half | No | Yes |

| | | | |
|-----------------------|--------------------------------|----------------|-----|
| New Jersey | Only announced public hearings | Yes | Yes |
| New Mexico | All | Yes | Yes |
| North Carolina | Most | Yes | No |
| North Dakota | All | No | Yes |
| Oregon | All | No | Yes |
| South Carolina | Most | Yes | Yes |
| Tennessee | All | No | Yes |
| Texas | All | No | Yes |
| Utah | All | No | No |
| Vermont | Only at chair's request | Yes | Yes |
| Washington | All | Yes, as needed | Yes |
| West Virginia | All | No | Yes |

COMMITTEE SECRETARIAL SERVICES

Although the legislative rules usually refer to the keeping of minutes as the responsibility of the committee or the committee presiding officer, it is generally the committee secretary to whom this responsibility falls. In April of this year, staff sent surveys to 25 state legislative bodies seeking information on standing committee secretarial services. The legislative bodies chosen were those that closely resembled Montana's legislative bodies; i.e., part-time legislators and, in some instances, bodies meeting in biennial sessions. The following is a summary of the survey responses to specific questions regarding legislative committee secretarial services.

(1) Who hires the secretaries for the standing committees?

- () Chief Clerk/Senate Secretary*
- () Committee chairpersons*
- () Legislative agency*
- () Other*

The answers to Question (1) were fairly evenly divided among the four possibilities. Committee presiding officers and legislative agency each garnered 21% of the responses. Chief Clerk/Senate Secretary received 29% as did "Other". The responses listed under "Other" included: staff director, supervisor of secretaries, employment committee in each house, and a committee made up of legislative leadership.

(2) Is there a job description that includes qualifications for a committee secretary?

The response to this question was evenly divided between "yes" and "no" at 43%. Fourteen percent did not respond.

(3) Who supervises the committee secretaries?

- () Chief Clerk/Senate Secretary*
- () Committee chairperson*
- () Legislative agency*
- () Other*

While one might expect that the responses to this question would closely mirror the responses to Question (1), that did not occur. The person or entity that hires the secretary does not necessarily supervise the secretary. Twenty-nine percent responded that the committee presiding officer was responsible for supervision. The Chief Clerk/Senate Secretary supervised in 14% of the survey responses as did a legislative agency. Fifty percent responded that some other person or entity was responsible for supervision. Those "others" included: staff director, committee research staff, secretarial supervisor, committee coordinator, committee staff administrator, and a committee services director.

(4) Besides Committee minutes and committee reports, what other duties are assigned to a committee secretary?

- () Hearing notification*

- () Committee room setup*
- () Secretarial duties for committee chairperson*
- () Secretarial duties for other legislators and/or staff*
- () Other*

Every survey, with one exception, answered this question with more than one response. Eighty-six percent responded that hearing notification was the responsibility of the committee secretary. This was followed by 79% for secretarial duties for committee presiding officers or other legislators/staff, 57% for room setup, and 21% for "Other", including secretarial duties for the committee administrator, meeting agendas as directed by the committee analyst, and duties as assigned by the committee presiding officer. Seven percent did not respond.

(5) Is one secretary assigned to one committee for the entire session?

- () Yes*
- () No*

(6) Are there committees that have more than one secretary?

- () Yes*
- () No*

Generally speaking, one secretary is assigned to one committee and remains with that committee for the duration of the legislative session. However, 43% responded that some committees have more than one secretary. The Nevada Senate, for example, assigns no fewer than two secretaries to each committee. If a committee meets five days a week, three secretaries are assigned: one schedules meetings and handles all other clerical duties, while the other two prepare for meetings, record the meetings, and transcribe the minutes. Other legislative bodies reported that committees with heavy workloads have assistant secretaries, staff support persons, and committee clerks. One survey said that a committee can have a staff ranging from two to seven people; staffing varies at the discretion of the committee presiding officer.

(7) Is training provided to committee secretaries prior to the beginning of a legislative session?

- ☐ Yes
- ☐ No

Everyone who answered this question answered "yes". The length of the training ranged from half a day to one week. The training generally consisted of work with computers or word processing and with committee procedures: contents of minutes; preparing amendments, hearing schedules, and committee reports; using the bill status system; legislative process and rules; protocol and ethics; and general administrative responsibilities. One state reported that weekly staff meetings are held to discuss procedures, problems, etc.

(8) *What kind of technical and staff assistance is provided to committee secretaries?*

- ☐ Committee aide
- ☐ Proofreaders
- ☐ Other

Almost all of the responses indicated that committee secretaries are provided with some form of personnel assistance. The most common is a committee aide or clerk who helps set up the committee room, makes copies, puts bills into the committee members' books, and runs errands. Some legislative bodies use transcribers to prepare rough drafts of the committee minutes from the audiotapes; some transcribers actually prepare the final copy.

(9) *Is there a deadline by which committee secretaries must have their committee minutes completed?*

- ☐ Yes
- ☐ No

Fifty percent of the responses stated that deadlines were imposed, while 43% answered "no". The deadlines ranged from the next committee meeting to three weeks after the end of the session. Two of the legislative bodies that replied no said that secretaries are encouraged to complete the minutes within two weeks of the meeting; their progress toward meeting that timeframe is closely monitored.

(10) Other Comments:

Among the most interesting comments were those from the Colorado General Assembly. The Colorado Legislative Council provides an analyst for each committee. The analyst's duties include preparing a meeting summary, scheduling bills, preparing the committee report, writing amendments, serving as a liaison to the public, and performing research. A staff assistance pool assists the analyst by formatting the committee documents, including the meeting summaries and committee reports. In more recent years, however, the meeting summary has become less important, and many committee analysts no longer write them.

CHAPTER FOUR

FINDINGS AND CONCLUSIONS

FINDINGS

1. There are very few guidelines or consistent standards for a secretary to follow in determining what constitutes a complete set of quality committee minutes.
2. Committee secretaries are minimally qualified when hired and receive little relevant training to prepare them for their principal responsibility-- recording committee activities.
4. Committee secretaries have many other duties and responsibilities that make it difficult for them to complete their minutes in a timely manner.
5. Standing committee secretarial positions are not highly sought by well-qualified, professional secretaries, partially because of the seasonal nature of the work and partially because of the pay levels, among other factors.
6. Only one in six of the people who responded to the survey--people who use legislative committee minutes--felt that committee minutes meet their needs.
7. Nearly four out of five respondents indicated that committee minutes lack sufficient detail.
8. Almost half of the respondents favored a verbatim transcript of committee action.
9. A majority of respondents indicated an overall desire for better-trained and better-qualified secretaries, more detail in the minutes, and more timely minutes.

10. Many legislatures in other states have definite requirements for the content of committee minutes and impose deadlines for the completion of the minutes.
11. Close to one-half of the respondents to the survey of state legislative bodies indicated that they have specific qualifications for committee secretaries.
12. Many legislatures in other states allocate more staff resources to standing committees than does Montana.

CONCLUSIONS

1. People who use legislative committee minutes to meet their business or public responsibilities see a need for improved records of committee activities.
2. Resources allocated to recording committee activities do not meet the demands of the users of those records.
3. To meet the expressed desires of people who use committee minutes, the Legislature needs to provide for better-qualified, better-trained, and additional numbers of secretaries.
4. Committee presiding officers should take more responsibility for reviewing committee minutes.
5. The current requirement for summary minutes, coupled with the other duties and responsibilities, make it extremely difficult for committee secretaries to produce the minutes in a timely manner.
6. If the Legislature is unwilling or unable to commit adequate resources for the production of high-quality summary minutes in a timely manner, the current method of producing summary minutes should be replaced with a more simplified version of the minutes.

CHAPTER FIVE

ISSUES AND OPTIONS FOR LEGISLATIVE COMMITTEE MINUTES

INTRODUCTION

After compiling and analyzing the various surveys and reviewing the small amount of literature available on this subject, staff developed a number of "Issues and Options" papers. Each of these papers identified a problem with the current system of producing legislative committee minutes, provided background information on the problem, and offered some suggestions for solving the problem. The "Issues and Options" papers were presented to the Legislative Council on September 12, 1996, for its consideration.

ISSUE NUMBER ONE

There is no clear definition of the components of a set of committee minutes. In the absence of such a definition, secretaries are left to decide what information should be included in and what should be left out of the minutes. This leads to inconsistencies in the amount and the quality of the information.

BACKGROUND

Article V, section 11(2) of the Montana Constitution declares that:

Every vote of each member of the legislature on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public.

On final passage, the vote shall be taken by ayes and noes and the names entered on the journal.

In addition, 2-3-212, MCA, states that the minutes of all meetings of public agencies must include the date, time, and place of the meeting; a list of the individual members in attendance; the substance of all matters proposed, discussed, or decided; and, if requested by any member, a record by individual members of any vote taken. In a legislative committee, the

"substance of all matters proposed, discussed, or decided" could simply be the number and title of each bill along with any proposed amendments.

Mason's Manual of Legislative Procedure does not address legislative committee minutes in a manner that would assist secretaries in determining what should be included. *Robert's Rules of Order*, on the other hand, devotes an entire section to the proceedings, or "minutes", of a committee. According to *Robert's*, the minutes should contain:

- (1) the name of the organization;
- (2) the date, time, and place of the meeting;
- (3) the attendance of the presiding officer and secretary;
- (4) whether the minutes of the previous meeting were read and approved;
- (5) the subject matter considered and all motions pertaining to the subject matter;
- (6) all main motions, secondary motions, and notices of motions;
- (7) all points of order and appeals; and
- (8) the hour of adjournment.

Robert's maintains that, unless the minutes are to be published, the minutes should contain a record of what was done at the meeting, not what was said by the members. If the minutes are to be published, the minutes should include a list of all speakers on each side of every question, with an abstract or the text of each address. No mention is made of including any discussion of the subject matter by the members.

Some state legislative bodies define the components of a set of committee minutes in the legislative rules. Some of the common components are date, time, and place of the meeting; list of members in attendance; list of witnesses; bills and amendments considered; action of committee on each bill and amendment; and vote of individual members on all motions. Some states do require some sort of brief statement or summary of remarks by witnesses or members.

Based on the results of the survey sent to the users of Montana legislative committee minutes, people who use the minutes want more detail in the minutes, especially during the question and answer period and during executive session.

OPTIONS

- 1. *Include in the minutes only those components required by the Montana Constitution and Montana law.***

The components under this option would be:

- (1) date, time, and place of the meeting;
- (2) names of committee members in attendance;
- (3) titles of bills considered by the committee;
- (4) all of the substantive motions made in the meeting; and
- (5) every vote of each member on each substantive question.

The current House and Senate Journals consist of these components. Standing committee minutes composed of these components would look very much like the journals.

- 2. *Prepare "simplified" minutes.***

The components of a set of "simplified" minutes would be:

- (1) date, time, and place of the meeting;
- (2) committee members in attendance, excused, or absent;
- (3) bills heard;
- (4) list of witnesses;
- (5) bills acted upon, including amendments;
- (6) motions and votes;
- (7) list of visitors; and
- (8) attached exhibits.

This option would meet the constitutional and statutory requirements while providing additional information that could prove useful to researchers and other users of committee minutes.

- 3. *Use Option No. 2 with an additional component: a digest of important points made by witnesses and by committee members.***

This option is basically what the current minutes attempt to include. However, the problem is determining what exactly are the important points.

Right now, that determination is made by the committee secretary who may or may not have the necessary expertise to make the determination.

How does the committee secretary go about determining what are the important points made by witnesses before the committee and by the committee members? One possibility would be to require that witnesses provide a written copy of their remarks before the committee, even if they are just handwritten. Another possibility would be to have the minutes available at the next meeting or within one week of the meeting for review by the entire committee.

ISSUE NUMBER TWO

The quality of legislative committee minutes is inconsistent. While some minutes are very well written, others are poorly written. Some of the problems identified by users of the minutes include: lack of sufficient detail; mistakes in the recording of statements, motions, or other important matters; and omission of the discussion of some issues that occurred at the meeting.

BACKGROUND

The minutes of legislative committee meetings constitute a permanent historical record of legislative activity. The minutes record the nature of the committee's discussion, the scope of the legislation's provisions, the planned or perceived impact of the legislation on various groups and individuals, and the views of interested persons.

Because the minutes are an important historical record, it is the job of the secretary to make sure that the minutes accurately reflect the deliberations of the committee on the legislation under consideration. There is little room for mistakes.

Unfortunately, mistakes do occur, and some minutes are so poorly written as to be useless. In response to the survey question about satisfaction with committee minutes (see Chapter Two), only 17% of the users of committee minutes found them satisfactory.

OPTIONS

1. *Provide verbatim transcripts instead of summary minutes.*

The current policy regarding committee minutes is to provide summary minutes. These minutes are a synopsis of the meeting, capturing the major points of the discussion in a succinct manner and accurately recording the motions and votes. Summary minutes lend themselves to mistakes. The summarization is left to the committee secretary who may or may not be familiar with the topic under discussion. The most difficult portion of summary minutes is the discussion by the committee of the bill under consideration. Attempting to paraphrase the members' questions and comments can be very difficult, especially if the secretary is unfamiliar with the subject or the member is not particularly articulate.

To avoid the mistakes or errors that can occur in summary minutes, a verbatim transcript of the meeting can be made. In a verbatim transcript, the proceedings of the meeting are transcribed word for word. There is little room for interpretation or error.

Verbatim transcripts could be prepared by the committee secretary or by someone in the word processing pool. If the secretary is selected to do the transcription, the secretary would have to be freed from some of the other secretarial duties because verbatim transcripts take a great deal of time to prepare. If the word processing pool is selected to do the verbatim transcripts, more word processors (equipment and personnel) may be necessary. Additionally, committee meetings, especially questions, answers, and discussion, would have to be conducted more formally.

A compromise between summary and verbatim minutes may be to summarize the testimony portion of the meeting but to transcribe verbatim the question and answer portion and the executive session.

2. *Rely on audiotapes of the meeting and prepare only "simplified" minutes.*

Another option for preparing minutes that would avoid the identified problems with the current summary minutes would be to rely on the audiotapes of the meeting for the testimony, questions and answers, and committee discussion and to prepare only a "simplified" set of minutes as

the written record. A "simplified" set of minutes would include such items as:

- (1) date, time, and place of the meeting;
- (2) committee members in attendance, excused, or absent;
- (3) bills heard;
- (4) list of witnesses;
- (5) bills acted upon, including amendments;
- (6) motions and votes;
- (7) list of visitors; and
- (8) attached exhibits.

A recording log would also have to accompany the written minutes. This log would serve as an index, allowing a listener to find the approximate place on the tape that the listener was looking for.

If this option were chosen, great care would have to be taken to ensure that the audiotapes were of good quality and would be readily available for use. Currently, the tapes are available only at the Montana Historical Society. In order to make the tapes more accessible, more repositories for the tapes would have to be found.

3. *Hire better-qualified secretaries.*

Currently, there are no job qualifications nor are there job descriptions for committee secretaries. Secretaries are hired through the House and Senate and not through the Montana Job Service. While there are some experienced secretaries who return session after session, others are hired for a variety of reasons, qualifications notwithstanding. It is possible that a session secretary will have no experience with secretarial work nor any experience with word processing.

An option for consideration is to initiate a more standardized hiring process that includes developing a job description for a committee secretary and then establishing qualifications for the position. The House and Senate could still hire, but at least those who are hired would meet minimum job qualifications. The House and Senate could go one step further and hire secretaries in the same manner as all state employees are hired.

One suggestion that was made by a respondent to the survey of users of committee minutes was to have the committee secretaries hired and supervised by the Legislative Services Division (LSD). This would allow LSD to develop job descriptions, set minimum qualifications, and hire secretaries in the same manner that other LSD session employees are hired. However, the supervision would involve a significant outlay of time on the part of someone on the LSD staff during a legislative session, when staff resources are already stretched to the limit. It would probably necessitate the hiring of a temporary secretarial supervisor whose sole job would be to ensure that the minutes were intelligible, completed in a timely manner, signed by the committee presiding officer, and distributed, along with the audiotapes, to the proper repositories.

4. *Hire professional editors as part of the session staff.*

Professional editors would be a valuable asset to the staffs of both the House and the Senate. The editors' job would be to review and edit committee minutes, although editors could also edit other documents such as the legislative journals and floor amendments not written by staff of the Legislative Services Division.

ISSUE NUMBER THREE

The minutes are not completed and available in a reasonable amount of time. In some cases, the minutes are not available until many months after the end of the legislative session. For example, after the 1995 Session, the minutes of one Senate Committee were not available until January 1996.

BACKGROUND

The minutes of a legislative committee are vitally important for the staff of state agencies who are preparing administrative rules to implement newly enacted laws. Generally, administrative rules are promulgated during the summer following a session in order to be in place by October 1, the general effective date for most legislation. If someone wants to challenge newly enacted legislation in the courts, attorneys may rely on legislative committee minutes in preparing for litigation. Other uses of committee minutes that demand timely availability include preparing for interim studies, compiling legislative histories, answering requests for information about newly enacted

laws, and reporting to constituent groups on a recently completed legislative session. When the minutes are not available in a timely manner, it makes it very difficult for state agencies, private attorneys, lobbyists, and legislators to fulfill their responsibilities to their clients and constituents.

Many state legislative bodies have placed deadlines in their rules for the completion of committee minutes. These deadlines range from the next regularly scheduled meeting of the committee to one month after the end of the legislative session. Some legislative bodies do not have deadlines, but encourage secretaries to complete the minutes within two weeks of the meeting; their progress toward meeting that timeframe is closely monitored.

OPTIONS

1. ***Establish a deadline for the completion of legislative committee minutes.***

There is currently no deadline by which legislative committee minutes must be completed. While secretaries are encouraged to complete the minutes as soon as possible, there are no sanctions imposed on the secretary or the presiding officer for minutes completed well after the end of a legislative session. In some instances, the minutes are completed in a timely manner but are delayed when a committee presiding officer fails to read and sign them in a timely manner.

If the Montana House and Senate were to establish deadlines for the completion of minutes, other changes would most likely have to be made to accommodate those deadlines. Those changes could include the hiring of additional secretaries, freeing up secretaries from some of their other duties in order to concentrate on completing the minutes, or changing the format for committee minutes from summary minutes to "simplified" minutes. Also, some form of sanctions for secretaries, presiding officers, or both for failure to meet the deadlines might have to be instituted in order to make the deadlines more effective.

If secretaries were required to have committee minutes completed before the end of a legislative session, the schedule could include time for a review of the minutes by the committee members. If the deadline was set for sometime after the session ended, the schedule would have to allow for a timely review by the committee presiding officer.

2. *Hire additional secretaries, especially for the Class 1 committees.*

There are many legislative committees that carry very heavy loads. Most often, these are the Class 1 committees that meet every day. But sometimes, it can be a Class 2 or Class 3 committee that handles particularly controversial issues that result in long and often difficult meetings. In these instances, the work of the committee secretary becomes almost overwhelming. To handle this heavy workload, an additional secretary could be assigned. The Nevada Senate, for example, assigns no fewer than two secretaries to each committee. If a committee meets five days a week, three secretaries are assigned: one schedules meetings and handles all other clerical duties, while the other two prepare for meetings, record the meetings, and transcribe the minutes.

During the 1995 Legislative Session, the Senate Judiciary Committee, a Class 1 committee, had two secretaries who took turns taking the minutes of the committee meetings. The secretaries worked very well together and were able to produce quality minutes in a timely manner. Such an arrangement could work with other committees.

3. *Hire additional staff to assist committee secretaries.*

In addition to recording committee activities, committee secretaries perform a number of other duties: meeting notification; preparation of the committee schedule; ordering of bills and fiscal notes; maintaining the members' notebooks; setting up meeting rooms; collecting exhibits, witness sheets, and visitor registers; taping committee meetings; cleaning up meeting rooms; preparing committee reports; and transcribing minutes. Each of these tasks involves other tasks. In some instances, committee secretaries perform secretarial duties for the committee presiding officer, such as answering constituent correspondence, making phone calls, and arranging for committee social events.

Each of the above-listed tasks takes away from the time needed to prepare the committee minutes. The hiring of additional staff could relieve the secretary of many of these other duties. Other states' legislative bodies assign additional staff to committees, such as assistant secretaries, staff support persons, and committee clerks. During more recent sessions of the Montana Legislature, committee aides have been hired to assist the secretary

with such duties as preparing the meeting room and maintaining the members' notebooks.

ISSUE NUMBER FOUR

The lines of authority regarding the hiring and the supervision of committee secretaries are very hazy. Legislative leadership, the Legislative Administration Committees, the standing committee presiding officers, the Secretary of the Senate, and the Chief Clerk of the House are all mentioned as having hiring and supervisory authority over Senate and House employees. For committee secretaries, it is especially confusing because both the committee presiding officer and either the Secretary of the Senate or the Chief Clerk of the House have supervisory authority over them.

BACKGROUND

The Senate Rules state that the Senate shall employ staff as recommended by the leadership and the Legislative Administration Committee. The Rules go on to say that a committee presiding officer shall designate a secretary to take and transcribe the minutes of committee meetings. The secretary is immediately responsible to the presiding officer but works under the direction of the Secretary of the Senate, subject to the authority of the presiding officer. The House Rules state that the Speaker shall recommend to the Legislative Administration Committee the employment of necessary staff. A committee secretary is responsible to the committee presiding officer but works under the direction of the Chief Clerk.

In more recent sessions, a word processing supervisor has been hired in the Senate and in the House. This supervisor also has been given some authority over the committee secretaries, although this authority is not spelled out in the Rules of either body.

OPTIONS

- 1. Make committee secretaries directly responsible to the Chief Clerk or Secretary of the Senate.***

This option would change the relationship between the committee presiding officer and the committee secretary. No longer would the committee secretary be considered a secretary to the presiding officer and, therefore,

available to do private correspondence. The word processing pool would be available to provide secretarial assistance to a committee presiding officer. This would give the Chief Clerk or Secretary of the Senate the authority, either directly or through the word processing supervisor, to more closely monitor a secretary's progress in completing committee minutes in a timely manner.

2. ***Make the committee presiding officer the sole supervisor of the committee secretary; eliminate the supervisory role of the Chief Clerk and Secretary of the Senate.***

This option would place greater responsibility on the committee presiding officer. It would mean that the committee presiding officer would be responsible for monitoring the progress of the secretary in completing the minutes. This responsibility might not end with the end of the session but could continue after the session until the secretary was finished with the minutes. This option would pose difficulties in that legislators leave Helena as soon as the session is over, which would make it very difficult for them to monitor the secretaries' progress.

3. ***Write a job description for committee secretaries that specifically delineates the lines of authority and supervision as well as the duties of a committee secretary.***

A job description would go a long way in assisting committee secretaries in understanding exactly what their duties are and are not and to whom they are responsible. If personal secretarial duties for a committee presiding officer are deemed appropriate duties for a committee secretary, then that would be included in the job description. The same would be true for other duties, such as organizing committee social events. The job description could also clarify to whom a secretary is responsible for what duties.

ISSUE NUMBER FIVE

Microfiche copies of legislative committee minutes are distributed to libraries throughout the state through the depository library system. However, microfiche is difficult to read and is not searchable through the use of keywords or phrases. If the date on which a bill was considered is recorded

incorrectly, the search for the hearing on that bill can become very frustrating.

BACKGROUND

Committee minutes have been microfiched since 1987. Microfiche has proven to be a relatively efficient means of storing committee minutes. A set of minutes from an entire legislative session can be kept in a single three-ring binder as opposed to a three-drawer file cabinet. Searching microfiche is also easier than poring over reams and reams of paper. If copies are necessary, they can be made right off of the microfiche reader with the push of a button.

However, with the rapid advances in computer technology, more and more information is now being stored on CD-ROMs. In 1993, the Legislative Services Division began making the Montana Code Annotated available on CD-ROM. In 1995, the House and Senate Journals were published on CD-ROM. As more and more people hop onto the information superhighway, they will want easier and quicker access to information, including legislative committee minutes.

OPTION

Put legislative committee minutes on a CD-ROM and make them available in the same manner as other legislative publications.

The Legislative Services Division has the capability and the experience of putting legislative information on a CD-ROM. Adding the committee minutes is technically feasible, providing that staff assistance is available to create the CD-ROM and to scan the meeting exhibits into an electronic format so that they can be included on the CD-ROM. Paper copies and microfiche would still be available as backup resources.

RECOMMENDATION

At its meeting on September 12, 1996, the Legislative Council heard a presentation on the "Issues and Options" for changing the current method of producing legislative committee minutes. The Council members questioned the need for continuing the current method of producing committee minutes. If determining legislative intent was necessary for a particular piece of

legislation, then the audiotapes of the meeting at which the legislation was considered would be more valuable than a written record produced by a secretary. If a secretary has too many other duties and responsibilities that preclude completing the minutes in a timely manner, then the type of minutes being produced should be changed. Expecting the presiding officer of a committee to take a greater role in reviewing the minutes was unrealistic. Council members also saw no need to change the current hiring practices nor the roles of the committee presiding officer and the Senate Secretary and House Chief Clerk in supervising the committee secretaries. If the House and Senate administrations saw a need for more than one secretary for a committee, they already had the flexibility to make that decision. Deadlines were generally favored by the Council members, but no decision was made to establish specific deadlines. It was felt that the Senate and House administration could set deadlines without formal adoption by the Rules Committees.

Following the presentation and after some discussion, the Council adopted the following motion:

To change minutes to simplified minutes with copies of tapes available as appropriate, written statements allowed for testimony, encourage deadlines, and store minutes on CD-ROM.

This recommendation will be forwarded to the House and Senate Rules Committees for consideration and adoption. The Rules Committees will not meet until after the legislative caucuses that are scheduled for November 23, 1996. At that time, staff will provide further information as to the implementation and costs of the proposal.

The written minutes of a committee meeting will still be the official record of the meeting. The original written minutes, including the exhibits and other attachments, will be stored in the State Archives at the Montana Historical Society. The written minutes will no longer be microfiched but will be available on CD-ROM for review or for purchase. The State Law Library will either keep a paper copy of the minutes or will use the CD-ROM. The audiotapes will be kept by the State Archives, and copies will be available for purchase. The State Archivist is recommending that the tapes be kept for two sessions and then recycled. In the past, the written minutes and the

tapes were not available for use until after the legislative session ended. Under this proposal, it is anticipated that the written minutes and the tapes will be available during the session.

Currently, the written summary minutes are available at libraries across the state. Under this new proposal, the written minutes will still be available in libraries, but for a more complete discussion of what occurred during a committee meeting, a person will have to personally go to the State Archives to listen to the tape or will have to purchase a copy of the particular tape.

Because this proposal is a departure from the summary minutes that have been produced, staff recommends that the Legislative Council, with the assistance of the State Archives, the State Law Library, and the Senate and House administrations, review and critique this new method next interim and, if necessary, refine the process or return to the summary minutes.

CHAPTER SIX

CONCLUSION

The decision made by the Legislative Council on September 12, 1996, represents a significant break from the past. No longer will attorneys, lobbyists, public employees, legislators, or members of the public be able to read the minutes of a legislative committee to determine what transpired or what the thought processes of a committee were in accepting or rejecting a particular piece of legislation. This information will now have to be gleaned from the audiotape of the meeting.

Critics of the proposal believe it is a step backward in providing public access to the legislative process. The written minutes will be virtually useless except as a record of how individual members voted on a particular piece of legislation. The reasoning behind their votes, if expressed during the committee meeting, will no longer be as readily available as it was in the past.

Supporters of the proposal maintain that it is better to listen to the tape to glean intent or the reasons for a particular vote than to rely on a secretary's decision as to what information should or should not be included in the minutes. One of the persistent criticisms of the current method is a lack of detail. Short of a verbatim transcript, summary minutes will never contain everything that everyone thinks should be included.

For good or ill, the proposal has been adopted by the Legislative Council and will be recommended to the Rules Committees for adoption. Members of the Senate Joint Resolution No. 4 working group continue to meet to devise ways to best implement the proposal and to determine the costs of the recommendation.

As with any type of change, to depart from the familiar and the comfortable is difficult. However, it behooves those most affected by the change to assist in effecting the change in a manner that causes the least disruption. Should the proposal prove ineffective or detrimental to the legislative process, change is always possible.

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